THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 865 of 1998

Date: 18.04.2007

Between:

K. Ramakrishna

… Petitioner

AND

The Executive Director,
West Godavari District S.C. Services
Society Limited, Praghathi Bhavan,
Eluru and another.

… Respondents

Counsel for the petitioner : Sri Y.V. Ravi Prasad

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 865 of 1998

ORDER:-

This writ petition is filed by the petitioner for a Mandamus to declare the action of the respondents in not regularizing his services in the post of Driver in the 1st respondent – Organization as illegal and arbitrary and for a consequential direction to respondents to regularize his services in the post of Driver from the date of his initial appointment.

The case of the petitioner is that he was appointed as Driver on 16.05.1990 and since then he has been working continuously without any break on a daily wage basis and at the time of filing the writ petition he was getting Rs.60/- per day towards his wage. The petitioner pleaded that he has the requisite educational qualification as he studied up to 10th class for being considered for regularization apart from holding the valid light motor vehicle licence. He further pleaded that though he made several oral representations apart from written representations, the respondents have not regularized his services.

Sri J. Chennakeswvulu, Executive Director of the District Scheduled Castes Service Co-operative Society Limited, Eluru,

West Godavari, filed a counter-affidavit in which it is stated that the petitioner was engaged temporarily initially from 16.05.1990 and that he was removed during 1992-1993 and that he has not put in continuous service of five years. It is also stated, at the time of filing counter, he is being paid Rs.102/- per day as wage. It is also specifically pleaded that the petitioner is not eligible for regularization of his services in terms of G.O.Ms.No.212 dated 22.04.1994 as he has not satisfied some of the conditions stipulated therein. In para 10 of the counter-affidavit, it is stated that the State Government passed Act 2 of 1994 as amended in Act 3 of 1998 and Act 27 of 1998 under which the respondents are prohibited from making any appointments, continuing and regularizing the services of N.M.R./daily wage or employees on consolidated pay.

Heard Sri Y.V. Ravi Prasad, learned counsel for the petitioner. None appears for the respondents.

The Supreme Court in **SECRETARY, STATE OF KARNATAKA v UMADEVI**[1] held that a casual/daily wage worker or a temporary employee is not entitled as of right for regularization, unless a right is created by any statutory provision or a scheme framed by the employer concerned. The averments contained in the affidavit do not show that the petitioner's right for regularization is traceable to any statutory provision or any scheme framed by the respondents. Though no plea is raised on the basis of G.O.Ms.No.212 dated 22.04.1994 in the counter-affidavit, the respondents contended that even if G.O.Ms.No.212 is

applied, the petitioner does not satisfy the conditions stipulated therein for regularization.

No reply-affidavit is filed to controvert the allegations made in the counter-affidavit.

For the aforementioned reasons, there is no merit in the writ petition and hence it is liable to be dismissed. The writ petition is accordingly dismissed. No costs.

This order does not preclude the petitioner from applying for the post of Driver as and when the respondents notify the same and in such an event the respondents shall consider the case of the petitioner along with other eligible candidates.

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C.V.NAGARJUNA REDDY, J

Date: 18.04.2007
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[1] (2006) SC 1806